

ORIGINAL

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of)	MM DOCKET NO. 92-195
)	
Amendment of Section 73.202(b))	RM-7146
Table of Allotments)	
FM Broadcast Stations)	
(Beverly Hills, Florida))	

To: Chief, Allocations Branch
Policy and Rules Division

RECEIVED

DEC - 7 1992

FEDERAL COMMUNICATIONS
COMMISSION
OFFICE OF THE SECRETARY

**REPLY COMMENTS
OF HEART OF CITRUS, INC.**

Heart of Citrus, Inc. (Citrus), permittee of WXOF-FM, Beverly Hills, Florida, files this Reply. Citrus filed "Reply Comments" in this proceeding on November 16, 1992 in response to the "Comments of Sarasota-FM, Inc. and Gator Broadcasting Corporation" filed on October 30, 1992. Since then the Commission, by Public Notice Report No. 1918 on November 20, 1992, gave notice of Citrus's proposal to substitute Channel 246C2 for 246A at Beverly Hills, Florida, and to substitute Channel 300A for 247A in Chiefland, Florida in order to accommodate the Beverly Hills C2 upgrade. The Commission also gave public notice of Sarasota-FM, Inc. (SFI) and Gator Broadcasting Corporation's (Gator) counterproposal to provide C2 upgrades for WSRZ in Sarasota, and

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WRRX in Micanopy.¹ Reply comments to the Counterproposals are due December 7, 1992.

Citrus incorporates by reference its Reply Comments filed on November 16, 1992, attached as Exhibit 1. In particular, Citrus notes that the SFI/Gator proposal should never have been accepted since the proposal was procedurally defective. The proposals require the substitution of Channel 246C2 for Channel 292A in Holiday, Florida. However, that substitution was not specifically requested or endorsed by the licensee of Channel 292A in Holiday, Florida -- Pasco. Although Pasco was tentatively allocated a C2 channel (Channel 292C2), the allocation has been challenged by SFI, and the Commission action allocating the C2 channel has been automatically stayed pursuant to Rule 1.420(f).

Citrus also further responds to SFI/Gator's proposal that Channel 292C3 can be allocated to Beverly Hills. At note 4 and in the engineering attached to Citrus' November 16 Reply, Citrus points out that the SFI/Gator proposal will not allow Citrus to

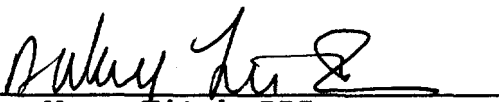
¹ Specifically, the public notice proposed: "Request Amendment FM Table of Allotments to substitute Ch. 247C2 for Ch. 249A at Micanopy, Florida and modify the license of Station WRRX-FM to specify operation on Ch. 247C2 at coordinates 29-38-55; 82-25-30; substitute Ch. 293C2 for Ch. 292A at Sarasota, Florida and modify the license of Station WSRZ-FM to specify operation on Ch. 293C2 at coordinates 27-27-49; 82-40-01; substitute Ch. 246C2 for Ch. 292A at Holiday, Florida and modify the license of Station WLVU-FM to specify operation on Ch. 246C2 at coordinates 28-16-51; 82-42-52; substitute Ch. 292C3 for Ch. 246A at Beverly Hills, Florida and modify the construction permit of Station WXOF to specify operation on Ch. 292C3 at coordinates 28-44-09; 82-29-56; substitute Ch. 300A for Ch. 247A at Chiefland, Florida and modify the construction permit of Station WLQH to specify operation on Ch. 300A at coordinates 29-31-00; 82-53-11.

provide the requisite city grade signal to its community of license -- Beverly Hills. As noted in the attached engineering statement, "The Gator/SFI target site at N.L. 28 44' 09", W.L. 82 29' 56" is within a platted residential subdivision and is not available for tower construction, thus requiring Citrus to find an alternate location further from Beverly Hills. This would, in turn, prevent the 70 dBu contour from encompassing the city of license as required in Section 73.315(a)." See Exhibit 2.

WHEREFORE, it is respectfully requested that Citrus' counterproposal be granted and that the counterproposal of SFI/Gator be denied.

Respectfully submitted,

HEART OF CITRUS, INC.

By 
A. Wray Fitch III
Its Counsel

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December 7, 1992

EXHIBIT 1

FILE COPY

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of

Amendment of Section 73.202(b)
Table of Allotments
FM Broadcast Stations
(Beverly Hills, Florida)

) MM DOCKET NO. 92-195

) RM-7146

RECEIVED

NOV 16 1992

To: Chief, Allocations Branch
Policy and Rules Division

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS

Heart of Citrus, Inc. (Citrus), permittee of WXOF-FM, Beverly Hills, Florida files this reply. Citrus filed a "Counterproposal and Comments of Heart of Citrus, Inc." on October 30, 1992. The only other Comments filed in this proceeding were the "Comments of Sarasota-FM, Inc. and Gator Broadcasting Corporation" also filed on October 30, 1992.

A. Background.

This rulemaking was initiated by Citrus on September 29, 1989 seeking to substitute Channel 246C3 for 246A in Beverly Hills, Florida. In response, the Commission issued its Notice of Proposed Rulemaking, __ FCC Rcd. __ (released September 8, 1992) seeking comments on the proposed substitution of Channel 246C3 for 246A in Beverly Hills, Florida.

Comments were filed by two parties. Citrus submitted its Counterproposal and Comments reiterating its intent to file for and construct Channel 246C3 if allocated to Beverly Hills, Florida. In addition, it advanced a counterproposal to allocate Channel 246C2 in lieu of 246A in Beverly Hills. The allocation

of the C2 Channel would provide public interest benefits by providing even greater coverage than the proposed C3 allocation. Both the C3 and C2 upgrades would provide Beverly Hills its first and only wide area radio service.

In sum, Citrus proposes the following options in order of preference:

Alternative One (Counterproposal)

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Beverly Hills, Florida	246A	246C2 ¹
Chiefland, Florida	247A	300A ²

Alternative Two (per NOPR)

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Beverly Hills, Florida	246A	246C3

Sarasota FM, Inc. (SFI), licensee of Station WSRZ, Sarasota, Florida and Gator Broadcasting Corporation (Gator), licensee of Station WRRX, Micanopy filed Comments advancing three alternative proposals -- all resulting in substitution of 293C2 for 292A in Sarasota, Florida and 247C2 for 249A in Micanopy, Florida. Specifically, SFI and Gator propose the following:

Alternative One

<u>Community</u>	<u>Present Channel</u>	<u>Proposed Channel</u>	<u>Station</u>
Sarasota, FL	292A	293C2	WSRZ
Holiday, FL	292A	246C2	WLVU
Beverly Hills, FL	246A	292A	WXOF
Micanopy, FL	249A	247C2	WRRX
Chiefland, FL	247A	300A	WLQH

¹ Site restriction 15 kilometers south required.

² SFI/Gator also propose that Channel 300A be substituted for 247A in Chiefland, Florida. Citrus served counsel for the Chiefland, Florida permittee via fax and first class mail on November 13, 1992.

Alternative Two

<u>Community</u>	<u>Present Channel</u>	<u>Proposed Channel</u>	<u>Station</u>
Sarasota, FL	292A	293C2	WSRZ
Holiday, FL	292A	246C2	WLVU
Beverly Hills, FL	246A	292C3	WXOF
Micanopy, FL	249A	247C2	WRRX
Chiefland, FL	247A	300A	WLQH

Alternative Three

<u>Community</u>	<u>Present Channel</u>	<u>Proposed Channel</u>	<u>Station</u>
Sarasota, FL	292A	293C2	WSRZ
Holiday, FL	292A	246C2	WLVU
Beverly Hills, FL	246A		
Sugarmill Woods, FL	—	292C3	WXOF
Inverness, FL		292C3	*
	*[alternate to Sugarmill Woods allocation]		
Micanopy, FL	249A	247C2	WRRX
Chiefland, FL	247A	300A	WLQH

B. Procedural Deficiencies.

All three of the SFI/Gator proposals have been advanced without specific affirmance or endorsement by one of the stations affected. Each alternative requires the substitution of Channel 246C2 for 292A in Holiday, Florida. Although Commission rules and procedures allow the Commission to substitute a same-class channel under certain circumstances, Citrus is aware of no precedent where the Commission has substituted a C2 Channel for a Class A facility without that station's specific authorization. SFI/Gator assert in note 7 of their Comments that Pasco, the licensee of Channel 292A in Holiday, has previously endorsed substitution of Channel 246C2 for Channel 292A at Holiday. However, this "endorsement" was made on October 4, 1989 over three years ago. In the interim, Pasco has been tentatively allocated, as it requested, Channel 292C2. See Perry, Florida, 7

FCC Rcd. 2557 (1992). Presumably, Pasco prefers Channel 292C2 since it is a same-channel upgrade and minimizes promotional and marketing expenses which would otherwise be incurred in moving to a new frequency. Also noteworthy is that throughout the proceeding allocating Channel 292C2 to Holiday, it is fair to describe the relationship regarding the various channel allocations proposed between SFI and Gator, on the one hand, and Pasco on the other, as adversarial. Indeed, SFI continues to challenge the allocation of Channel 292C2 to Holiday. See Application for Review, Motion for Stay, and Opposition to Order to Show Cause and Request for Evidentiary Hearing and Other Relief in MM Docket No. 87-455. SFI has also challenged the Commission's show-cause order substituting Channel 293A for 292A in Sarasota to accommodate the Pasco upgrade. See Order to Show Cause, 7 FCC Rcd. 2642 (April 29, 1992).

As a threshold matter then, all of the alternatives advanced by SFI and Gator must be rejected since they have not also been advanced by Pasco. It is because SFI has continued to contest Pasco's C2 upgrade that Pasco's Holiday station is not now a C2 facility. If Pasco were now a C2 facility, the Commission could substitute another C2 Channel (246C2). It cannot, however, substitute Channel 246C2 for Channel 292A without being requested to do so by Pasco.

C. A Beverly Hills Upgrade is the Preferred Option.

A comparison of the proposals advanced by Citrus for Beverly Hills and the proposals advanced by SFI/Gator favor grant of either of the Citrus proposals. In making comparisons between

proposed allotments, the Commission is guided by the priorities set forth in Assignment Policies and Procedures, 90 FCC2d 88 (1982), which are:

- i. First full-time aural service;
- ii. Second full-time aural service;
- iii. First local service; and
- iv. Other public interest matters.

(Co-equal weight given to priorities (ii) and (iii)). As recently noted in Fairbault, Bloomington, Prairie, Minnesota, 7 FCC Rcd. 3937 (released June 19, 1992),

Priority four (4) provides considerable flexibility in considering a variety of factors. The Commission in adopting the new priorities specifically stated that a comparison under priority (4) "can take into account the number of aural services received in the proposed service area, the number of local services, the need for or lack of public radio service and other matters such as the relative size of the proposed community and their growth rate."

Id. at para. 11.

Although adoption of SFI/Gator's Alternative One would result in service to more people overall than adoption of either of Citrus' proposals, grant of either of Citrus' proposals is preferable since it would result in service to currently underserved areas.³ The Sarasota and Micanopy upgrades will result in

³ The total population served from Citrus' C3 facility based on 1990 census data is 198,758 people, representing a gain of 89,966 people. See attached engineering. SFI/Gator calculate the gain for the Citrus C3 upgrade will be 109,223. See Bromo engineering attached to SFI/Gator Comments. The total population within Citrus' proposed C2 facility is 322,428 people, representing a gain of 213,636 people. See attached engineering statement. SFI/Gator's proposal to substitute Channel 247C2 for 249A in Micanopy, Florida will result in a net population gain of 117,867. Its proposal to substitute Channel 293C2 for 292A in

additional service to an already well-served major metropolitan area -- Tampa and Sarasota. There are over 20 radio stations licensed to St. Petersburg and Tampa alone, not including stations licensed to nearby communities. See FCC Database. Beverly Hills, on the other hand, is located in a growing rural area approximately 60 miles north of Tampa. Citrus is the only radio station allocated to Beverly Hills. Allocation of 243C2 will result in a new third aural service to 2,162 people in Hernando County and a new fourth aural service to 8,005 people in Hernando and Sumpter Counties. Allocation of 243C3 will result in a new third aural service to 2,162 people in Hernando County and a new fourth aural service to 7,443 people in Hernando and Sumpter Counties.⁴

Section 307(b) of the Communications Act requires the Commission "to provide a fair, efficient and equitable distribution of radio service...among the several States and communities."

Sarasota, Florida will result in a net population gain of 733,448. See Bromo Technical Exhibit One attached to Comments of Sarasota FM, Inc. and Gator Broadcasting Corporation.

⁴ SFI/Gator in their 2nd and 3rd Alternatives propose a C3 upgrade for Citrus. However, the upgrade is mutually exclusive with Citrus' First Alternative of allocating Channel 243C2 to Beverly Hills. In addition, it appears that SFI/Gator's proposal to allocate 292C3 to Beverly Hills will not allow Citrus to provide the requisite city grade signal to its community of license. SFI/Gator also propose allocation of 292C3 with a change in city of license from Beverly Hills to either Inverness or Sugarmill Woods. At this time, Citrus is unwilling to change its city of license which would also require Citrus to meet certain public interest criteria prior to Commission approval. Amendment of the Commission Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd. 4070 (1989). However, Citrus anticipates that there will be further discussions between Citrus and SFI/Gator on this issue.

Implementation of this mandate requires that a proposal providing for a new third and fourth service be preferred over proposals providing additional service to more people who are already well-served. In the context of comparative hearings, decisive preferences have been awarded for providing a new third and fourth service. See Daytona Broadcasting Company, Inc., 77 FCC2d 212, 55 RR2d 1326 (Rev. Bd. 1984), mod., FCC 85-318 (Commission released 12/26/85) (slight to moderate preference for third and fourth service); Louisiana Super Communications Limited Partnership, 59 RR2d 761 (Rev. Bd., 1985) (preference for third and fourth service); Radio Jonesboro, Inc., 52 RR2d 991, 996-997 (Rev. Bd., 1984) (preference for a 3,600 third and fourth service). Any population advantage for overall service to already well served areas is never accorded more than a slight preference and generally given less weight than service to underserved areas. See Christian Broadcasting of Midlands, Inc., 99 FCC2d 578, 582-583 (Rev. Bd. 1984).

The Commission has recognized within the context of rulemaking proceedings that an overall population advantage can be outweighed by a proposal serving fewer people but providing service to underserved areas. See Greenup, Kentucky, 6 FCC Rcd. 1493, 1495 (1991). In Greenup the Commission analyzed the proposals, discounting proposed new service proportionately to the amount of radio service already available. The Commission noted, "the specific methods we used for discounting populations as the number of services received increases is consistent with our general assumption of rapidly diminishing value to consumers

of each additional radio signal." Id at para. 13 (emphasis added). Here, SFI/Gator's proposal to serve more people is greatly diminished since its proposal provides service to the already well served major market Tampa metropolitan area. Conversely, Citrus proposes service to a rural underserved area. Section 307(b) of the Communications Act mandates that Citrus be awarded the maximum credit of the two formulas using the weighing procedures in the comparative hearing context and/or by indexing utilized in Greenup. To afford any less than the maximum credit of the two criteria would be an arbitrary and capricious application of 307(b). Citrus should be awarded a decisive preference for its proposal to serve underserved areas.

WHEREFORE, it is respectfully requested that Citrus' Comments and Counterproposal requesting allocation of Channel 246C2, or in the alternative Channel 246C3 to Beverly Hills, Florida be granted.

Respectfully submitted,

HEART OF CITRUS, INC.

By A. Wray Fitch III
A. Wray Fitch III
Its Counsel

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November 16, 1992

Engineering Statement

Page 1 of 4

This Engineering Statement was prepared on behalf of Heart of Citrus, Inc. ("Citrus") in support of Reply Comments to its Rulemaking RM-7146 in Docket MM 92-195. In the rulemaking petition, Citrus proposed to serve the public interest by improving first local service at Beverly Hills, Florida with an upgrade from Channel 246A to 246C3. It should be noted that subsequent to filing the petition, Citrus promptly completed construction of the WXOF (FM) facility in October, 1992, and has pending a Form 302 application for station license as a 6 Kw equivalent Class A facility.

Sarasota FM Inc. ("Sarasota"), licensee of station WSRZ-FM, Channel 292A, Sarasota, Florida filed Comments and Counterproposals proposing to substitute Channel 292C3 at Beverly Hills. This plan requires substitutions at Sarasota, Chiefland, Holiday, and Micanopy, Florida. Upon careful analysis, it was determined that under existing Commission spacing rules, the Sarasota FM Inc. proposal is in contravention with Section 73.207, and as such, should be DENIED. Moreover, the substitution of Channel 292C3 at Beverly Hills would require a site restriction of 22 kilometers, thereby preventing the required 70 dBu signal strength contour from encompassing the Beverly Hills incorporated limits in contravention of Section 73.315.

The total population served from the Heart of Citrus, Inc. Class C3 facility was calculated from 1990 Census data by first projecting the proposed 1.00 mV/m (60 dBu) contour from the target site in the petition. The population from each of the encompassed areas (partially and fully) on the minor civil division map was summed to yield approximately 198,758 persons. Uniform distributions were assumed in all areas. The total proposed land area within the 1.00

Engineering Statement

Page 2 of 4

mV/m contour was determined to be 3,595 square kilometers. This represents an 82.7 % increase in population (89,966 persons) and a 43.0 % increase in land area within the 60 dBu contour.

An extensive engineering analysis was also completed to determine if the Citrus upgrade proposals at Beverly Hills would provide additional service to under-served areas. It was determined that a Citrus Class C3 facility is predicted to provide a third aural full time service to under-served areas of Hernando County, Florida. The population receiving the proposed new service was determined to be approximately 2,162 persons. In addition, 7,443 persons in Hernando and Sumpter Counties would receive a fourth aural full time service. Moreover, if the Beverly Hills allocation is upgraded to Channel 246C2, a total of 8,005 persons in Hernando and Sumpter Counties are predicted to receive a fourth aural full time service in addition to the 2,162 persons receiving a third aural full time service.

In its Comments, Citrus proposed and demonstrated that an upgrade to Class C2 was possible on Channel 246. The total population served from the Heart of Citrus, Inc. Class C2 facility was calculated from 1990 Census data as outlined above. The total population served by a Class C2 facility was determined to be approximately 322,428 persons, and the total land area was 5,834 square kilometers. This represents a 196.4 % increase in population (213,636 persons) and a 132.1 % increase in land area coverage.

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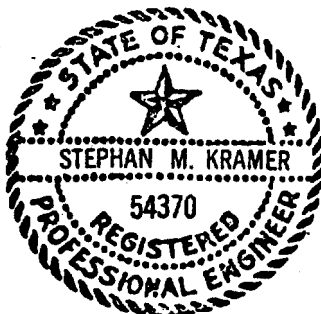
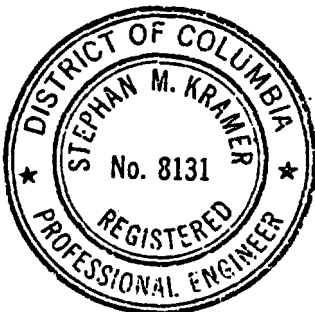
Engineering Affidavit

State of Texas)
)
County of Collin) ss:

Stephan M. Kramer, being duly sworn, deposes and states that he is a Registered Professional Engineer licensed in Texas and the District of Columbia, that he holds a B.S. Degree in Electrical Engineering from the University of Akron, and that he is a qualified and experienced Communications Consulting Engineer whose expert testimony and works are a matter of record with the Federal Communications Commission having received numerous application grants. He further states Heart of Citrus, Inc. retained the firm of Stephan M. Kramer, P.E. and Associates to prepare the attached Engineering Statement in support of Reply Comments.

The deponent further indicates the Statement was prepared by him or under his direction and is true of his own knowledge, except as to statements made on information and belief and as to such statements, he believes them to be true.

This declaration is made under penalty of perjury under the laws of the United States.



Stephan M. Kramer 11-11-92
Stephan M. Kramer, P.E.
Texas P.E. # 54370
District of Columbia P.E. # 8131

STEPHAN M. KRAMER, P.E. AND ASSOCIATES
BROADCAST AND FAA CONSULTING ENGINEERS
10500 BIGHORN TRAIL, SUITE 100 MCKINNEY, TX 75070 (214) 548-8244

Engineering Affidavit

State of Texas)
) ss:
County of Collin)

Brian L. Urban, being duly sworn, deposes and states that he is a Senior Project Engineer with the firm of Stephan M. Kramer, P.E. and Associated, holds certification as a Broadcast Technologist by the Society of Broadcast Engineers, that he is an experienced broadcast engineer with an FCC General Class Radiotelephone license, and that he has prepared numerous applications granted by the Commission under the direction of an experienced Registered Professional Engineer. He further states Heart of Citrus, Inc. retained the firm of Stephan M. Kramer, P.E, and Associates to prepare the attached Engineering Statement in support of Reply Comments..

The deponent further indicates the Statement was prepared by him or under his direction and is true of his own knowledge, except as to statements made on information and belief and as to such statements, he believes them to be true.

This declaration is made under penalty of perjury under the laws of the United States.

 11/11/92

Brian L. Urban

SBE Certificate # 20456

FCC License # PG-9-3654

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**SUPPLIMENTAL DATA FOR
ENGINEERING STATEMENT
IN SUPPORT OF
REPLY COMMENTS
BEVERLY HILLS, FLORIDA**

C3

Total Population Currently Receiving Three Services

Sumpter Co.

Sumpter Co. Div.	13511	
Bushnell	983	
Center Hill	751	
Lake Panasoffkee	2035	
Webster	<u>856</u>	
	8886 x 21%	178

Hernando Co.

Brookville Div.	18900	
Brookville	5582 x 20%	1116
Mountain Park	1007	
North Brookville	1014	
South Brookville	<u>1218</u> x 100%	1218
	10079 x 8%	806
Weeki Wachee Div.	23017	
Brookridge	1268	
High Point	1727 x 1%	17
South Weeki Wachee	1701 x 100%	1701
Spring Hill	6468	
Weeki Wachee	8 x 100%	8
Weeki Wachee Acres	<u>1037</u> x 75%	778
	10808 x 15%	<u>1621</u>
		7443

C3

Total Population Currently Receiving Two Services

Hernando Co.

Weeki Wachee Div.	23017	
Brookridge	1268	
High Point	1727	
South Weeki Wachee	1701	
Spring Hill	6468	
Weeki Wachee	8	
Weeki Wachee Acres	<u>1037</u>	
	10808 x 20%	<u>2162</u>
		2162

C2

Total Population Currently Receiving Three Services

Hernando Co.

Ridge Manor Div.	2552	
Ridge Manor	<u>1074</u>	
	1478 x 8%	118

C2
Total Population Currently Receiving Three Services

Sumpter Co.

Sumpter Co. Div.	13511	
Bushnell	983	
Center Hill	751	
Lake Panasoffkee	2035	
Webster	<u>856</u>	
	8886 x 5%	<u>444</u>
		562

Summary:

Proposed Class C3

Total Population Currently Receiving Three
Services - 7443 Persons

Total Population Currently Receiving Two
Services - 2162 Persons

Proposed Class C2

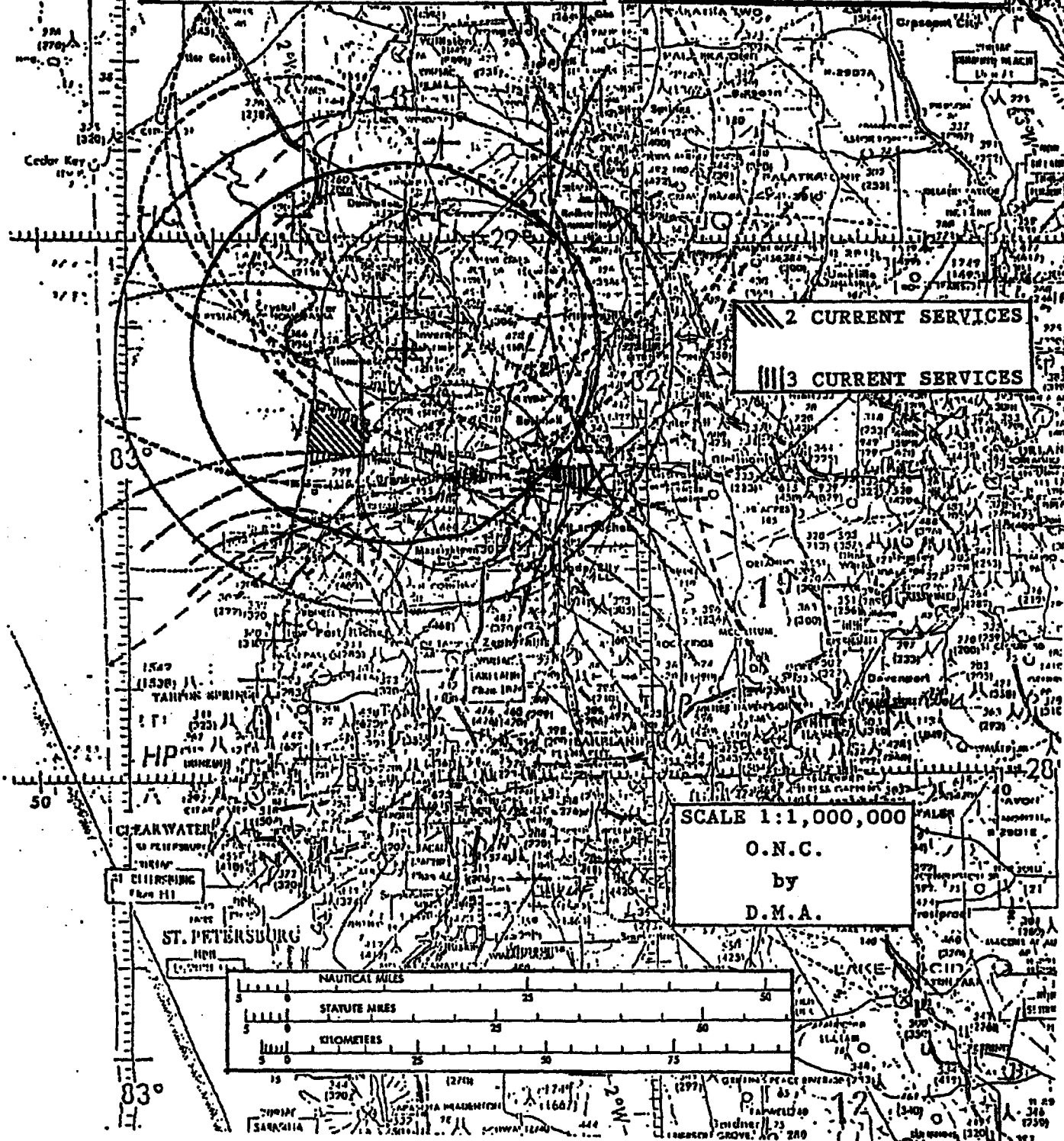
Additional Population Currently Receiving Services

Total Population Currently Receiving Three
Services - 562 Persons

FIGURE 1
PREDICTED SERVICE CONTOURS
MAP FOR UNDERSERVED POPULATION

HEART OF CITRUS, INC.
WXOF Ch 246A BEVERLY HILLS, FL

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2 CURRENT SERVICES

3 CURRENT SERVICES

SCALE 1:1,000,000

O.N.C.

by

D.M.A.

CERTIFICATE OF SERVICE

I, Tim Wineland, in the law offices of Gammon & Grange, do hereby certify that I have, on this 16th day of November 1992, mailed by first-class, postage prepaid, U.S. Mail, copies of the foregoing REPLY COMMENTS to the following:

Michael C. Ruger, Chief
Allocations Branch, Policy & Rules Division
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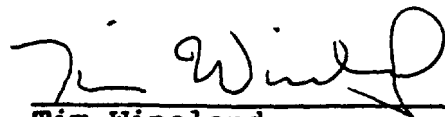

Tim Wineland

EXHIBIT 2

Engineering Statement in Support
of Further Reply Comments
Page 1 of 5

This Engineering Statement was prepared on behalf of Heart of Citrus, Inc. ("Citrus") in support of Further Reply Comments to its Rulemaking RM-7146 in Docket MM 92-195. In the rulemaking petition, Citrus proposed to serve the public interest by improving first local service at Beverly Hills, Florida with an upgrade from Channel 246A to 246C3. It should be noted that subsequent to filing the petition, Citrus promptly completed construction of the WXOF (FM) facility in October, 1992, and has pending a Form 302 application for station license as a 6 Kw equivalent Class A facility. Citrus initially was issued a construction permit for a 3.0 Kw facility, and was granted an upgrade to a 6.0 Kw equivalent facility using FCC Form 302 by Commission letter dated June 5, 1992.

In its Comments, Sarasota FM, Inc. ("SFI") and Gator Broadcasting Corporation ("Gator") proposed to have the Commission substitute Channel 292C3 for Channel 246A at Beverly Hills, Florida. Gator and SFI further requested the Commission process this proposal pursuant to Section 73.213 as the original Citrus petition was filed prior to October 2, 1989. In its Comments, Gator and SFI proposed a target site 0.13 kilometers short spaced to station WEAG-FM, Channel 292A, Starke, Florida. While this distance is considered de minimis by the Commission, examination revealed that the 70 dBu encompassed 85 % of Beverly Hills as defined in the Development of Regional Impact (DRI) statement filed with the State of Florida and Citrus County, Florida. See figure 1. The Gator/SFI target site at N.L. 28⁰ 44' 09", W.L. 82⁰ 29' 56" is within a platted residential subdivision, and is not available for tower construction, thus requiring Citrus to find an alternate location further from Beverly Hills. This would,

Engineering Statement in Support
of Further Reply Comments
Page 2 of 5

in turn, prevent the 70 dBu contour from encompassing the city of license as required in Section 73.315 (a). Therefore, the allocation of Channel 292C3 to Beverly Hills under Section 73.213 is not in the public interest, and should be DENIED.

Gator and SFI did not address the fact that Citrus is currently authorized as a 6.0 Kw facility, and therefore is subject to the spacing requirements of Section 73.207. Under these spacing requirements, the target site proposed by Gator and SFI is 4.1 kilometers short spaced to station WEAG-FM. A target site was selected by this office and used to predict the 70 dBu contour over the community of Beverly Hills. It was determined that the 70 dBu contour encompassed only 3 % of the Beverly Hills. Therefore, the Gator/SFI proposal is defective.

In its Reply Comments, Citrus demonstrated that the Commission grant of an upgrade from Channel 246A to Channel 246C3 would provide an additional full time aural service to areas currently underserved. Specifically, areas of Hernando and Sumpter Counties, Florida would receive a third and fourth full time aural service. Furthermore, Citrus advanced, and the Commission proposed, a request to upgrade its existing facility from Channel 246A to Channel 246C2 in lieu of Channel 246C3. As stated in its Comments, additional currently underserved areas would receive another full time aural service.

In as much as the proposal to allocate Channel 292C3 to Beverly Hills, Florida put forth in the Gator and SFI Comments cannot be granted consistent with Commission rules it should be DENIED.

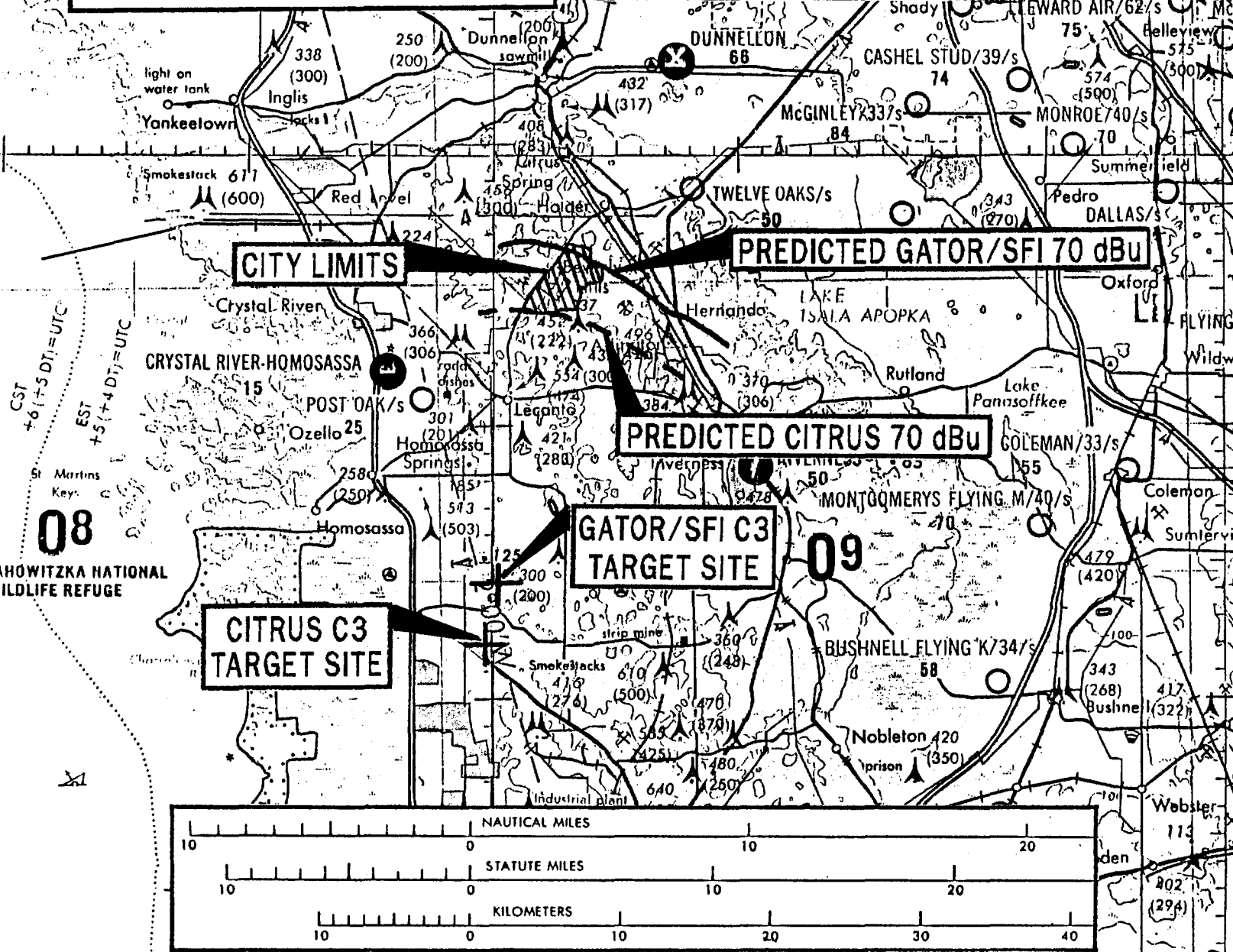
16

FIGURE 1
MAP DEPICTING PREDICTED
CLASS C3 70 dBu COVERAGE
OVER CITY OF LICENSE
DECEMBER, 1992

HEART OF CITRUS, INC.
WXOF CH 246 BEVERLY HILLS, FL

STEPHAN M. KRAMER, P.E. AND ASSOCIATES
BROADCAST AND FAA CONSULTING ENGINEERS

10500 BIGHORN TRAIL, SUITE 100 • MCKINNEY, TX 75069
(214) 548-8244
AM • FM • TV • LPTV • STL

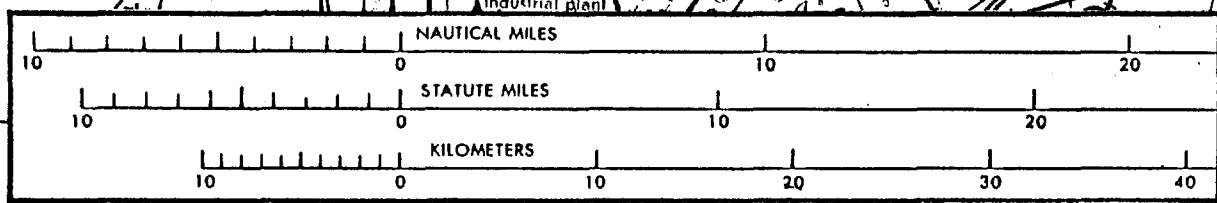


CITRUS C3
TARGET SITE

GATOR/SFI C3
TARGET SITE

PREDICTED GATOR/SFI 70 dBu

PREDICTED CITRUS 70 dBu



SCALE 1:500,000
T.P.C. H-25A
BY
D.M.A.
(PHOTOENLARGED)

ALL CONTOURS PLOTTED
PURSUANT TO THE LIMITATIONS
OUTLINED IN SECTION 73.311